IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.2834 OF 2005

Mohibulla Kitabulla Khan ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. Maniyar i/b. Mr. S.A.Shaikh for the Applicant.
Ms S.D. Shinde A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JULY 15, 2005.

P.C.:

1. Heard Advocate appearing for the Applicant and the learned A.P.P. for the State. The offences alleged against the Applicant are under sections 399 and 402 of the Indian Penal Code. The case of the prosecution is that the Aplicant and other co-accused were arrested on the spot and the Applicant was found in possession of one hacksaw.

2. The Application made by the Applicant before the Sessions Court is rejected mainly on two grounds. The first ground is, there is no material on record to show that the Applicant is a permanent resident of Mumbai and the address given in the Application made before the Sessions Court was very vague. It is stated that the address mentioned in the Ration Card and the address mentioned in the Application were different. The second ground is that considering the

nature of offence alleged against the Applicant, there is every possibility that the Applicant will abscond and he will tamper with the prosecution evidence.

3. After having heard the counsel appearing for the parties, I find that a case is made out for the grant of bail. The Applicant is in custody from February, 2005 and admittedly chargesheet is filed. If the address of the Applicant was not found to be correct was the ground for rejection of the Bail Application, the said factor can be taken care of by directing the Applicant to furnish local sureties from the city of Mumbai. This is not a case where there are any criminal antecedents of the Applicant. A xerox copy of the passport of the Applicant is annexed to this Application. As there are no criminal antecedents of the Applicant and as investigation is complete, even considering the allegations against the Applicant, he is entitled to be enlarged on bail subject to stringent conditions.

4. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with C.R. No.12 of 2005 of Taloja Police

Station, subject to furnishing a personal bond of Rs.25,000/- with two local sureties in the like amount.

ii) The order granting Bail will be given effect to after the Applicant furnishes his correct address and telephone number, if any, of his place of residence in Mumbai to the concerned Officer in the Jail and to the Investigating Officer. The order will be given effect only after the passport of the Applicant is surrendered to the Investigating Officer.

iii) The Bail is granted subject to condition that after the Applicant is enlarged on bail, he will attend the local Police Station within whose jurisdiction he will be residing on every Sunday between 11.00 a.m. to 01.00 p.m.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the

trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in the above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE